

The Honorable Judge Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

JAMES MCDONALD,

Plaintiff,

v.

ONEWEST BANK, FSB, NORTHWEST
TRUSTEE SERVICES, INC., MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC., INDYMAC BANK FSB, DOES 1-50,

Defendants.

No. C10-1952 RSL

**DEFENDANTS' ONEWEST AND MERS
ANSWER TO PLAINTIFF'S FIRST
AMENDED COMPLAINT**

Defendants OneWest Bank, FSB ("OneWest") and Mortgage Electronic Registration Systems Inc. ("MERS") (collectively "Defendants") submit this Answer in response to Plaintiff James McDonald's ("Plaintiff") First Amended Complaint ("FAC") as follows. All allegations not expressly admitted, denied, or otherwise pled below are hereby to be construed as denied.

I. JURISDICTION, VENUE AND PARTIES

1.1 Defendants admit the allegations of Paragraph 1.1.

1.2 Defendants assert the Note speaks for itself, and the Deed of Trust speaks for itself.

To the extent an answer is required, Defendants lack sufficient information to

1 admit or deny the remaining allegations of Paragraph 1.2 and on that basis deny
2 them.

3 1.3 Defendant OneWest admits that it does business in King County, Washington
4 with headquarters located in Pasadena, CA. Defendant OneWest denies the
5 remaining allegations contained in Paragraph 1.3. Defendant MERS and lacks
6 sufficient information to admit or deny the allegations of Paragraph 1.3 and on
7 that basis deny them.
8

9 1.4 Defendants assert the Notice of Trustee's Sale speaks for itself. To the extent and
10 answer is required, Defendants lack sufficient information to admit or deny the
11 remaining allegations of Paragraph 1.4 and on that basis denies them.
12

13 1.5 Defendant MERS admits that it is a corporation in Delaware and is listed as the
14 beneficiary of the Deed of Trust named by the original lender Indymac Bank, FSB
15 but lacks sufficient information to admit or deny the remaining allegations of
16 Paragraph 1.5 and on that basis denies them.

17 1.6 Defendants admit the allegations of Paragraph 1.6.

18 1.7 The statement in Paragraph 1.7 of the FAC is a statement that does not warrant a
19 denial or admission from Defendants.
20

21 **II. BACKGROUND FACTS AND HISTORY**

22 2.1 Defendants assert that the Note speaks for itself, and the Deed of Trust speaks for
23 itself. To the extent and answer is required, Defendants lack sufficient information
24 to admit or deny the remaining allegations of Paragraph 2.1 and on this basis deny
25 them.
26

1 2.2 The statement in Paragraph 2.2 of the FAC is a statement that does not warrant a
2 denial or admission from defendants. To the extent an answer is required,
3 Defendants assert that the Note speaks for itself.

4 2.3 The statements in Paragraph 2.3 contain legal conclusions and Defendants are not
5 required to respond. To the extent an answer is required, Defendants lack sufficient
6 information to admit or deny the remaining allegations of Paragraph 2.3 and on this
7 basis deny them.

8 2.4 The statements in Paragraph 2.4 contain legal conclusions and Defendants are not
9 required to respond. Defendants assert that the Notice of Default speaks for itself.
10 To the extent and answer is required, Defendants lack sufficient information to
11 admit or deny the remaining allegations of Paragraph 2.4 and on this basis deny
12 them.

13 2.4.1 The statements in Paragraph 2.4.1 contain legal conclusions and
14 Defendants are not required to respond. Defendants assert that the
15 Beneficiary Declaration speaks for itself. To the extent and answer is
16 required, Defendants lack sufficient information to admit or deny the
17 remaining allegations of Paragraph 2.4.1 and on this basis deny them.

18 2.5 The statements in Paragraph 2.5 contain legal conclusions and Defendants are not
19 required to respond. The letter referenced in Paragraph 2.5 speaks for itself. To
20 the extent an answer is required, Defendants lack sufficient information to admit or
21 deny the remaining allegations of Paragraph 2.5 and on this basis deny them.

22 2.6 To the extent the statements in Paragraph 2.6 contains legal conclusions,
23 Defendants are not required to respond. Defendants assert that the Assignment of
24

1 the Deed of Trust speaks for itself. To the extent and answer is required, Defendants
2 lack sufficient information to admit or deny the remaining allegations of Paragraph
3 2.6 and on this basis deny them.

4 2.7 To the extent the statements in Paragraph 2.7 contains legal conclusions,
5 Defendants are not required to respond. Defendants assert that the Appointment of
6 Successor Trustee speaks for itself. To the extent and answer is required,
7 Defendants lack sufficient information to admit or deny the remaining allegations of
8 Paragraph 2.7 and on this basis deny them.

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10 2.8 Defendants assert that the Notice of Trustee Sale speaks for itself. To the extent and
11 answer is required, Defendants lack sufficient information to admit or deny the
12 remaining allegations of Paragraph 2.1 and on this basis deny them.

13
14 2.8.1 Parties

15 2.8.1.1 The statement in Paragraph 2.8.1.1 of the FAC is a statement that
16 does not warrant a denial or admission from Defendants.

17 2.8.1.2 Defendants assert that the Notice of Trustee Sale speaks for itself. To
18 the extent and answer is required, Defendants lack sufficient
19 information to admit or deny the remaining allegations of Paragraph
20 2.8.1.2 and on this basis deny them.

21 2.8.1.3 To the extent the statements in Paragraph 2.8.1.3 of the FAC
22 contain legal conclusions, Defendants are not required to respond.
23 Defendants assert that the Notice of Trustee Sale speaks for itself.

24 2.8.2 Fees and Amount to Reinstate in Section II
25
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1 2.8.2.1 The statements in Paragraph 2.8.2.1 of the FAC are statements that
2 do not warrant a denial or admission from Defendants. The Notice
3 of Trustee's Sale speaks for itself.

4 2.8.2.2 The statements in Paragraph 2.8.2.2 of the FAC are statements that
5 do not warrant a denial or admission from Defendants as it is a
6 legal conclusion.

7 2.8.2.3 Defendants assert that the Notice of Trustee's Sale speaks for itself.

8 2.8.3 To the extent the statements in Paragraph 2.8.3 of the FAC contain legal
9 conclusions, Defendants are not required to respond. For the remaining
10 allegations, Defendants assert that the Notice of Trustee Sale speaks for
11 itself. To the extent an answer is required, Defendants lack sufficient
12 information to admit or deny the remaining allegations of Paragraph 2.8.3
13 and on this basis deny them.

14 2.9 Defendants assert that the Amended Notice of Trustee Sale speaks for itself. To the
15 extent an answer is required, Defendants lack sufficient information to admit or
16 deny the remaining allegations of Paragraph 2.9 and on this basis deny them.

17 2.9.1 Parties

18 2.9.1.1 The statements in Paragraph 2.9.1.1 of the FAC do not warrant an
19 admission or denial by Defendants. To the extent an answer is
20 required, Defendants assert that the Amended Notice of Trustee Sale
21 speaks for itself.

22 2.9.1.2 The statement in Paragraph 2.9.1.2 is a statement that does not
23 warrant a denial or admission from Defendants.
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1 2.9.1.3 The statement in Paragraph 2.9.1.3 is a statement that does not
2 warrant a denial or admission from Defendants. To the extent an
3 answer is required, Defendants assert that the Amended Notice of
4 Trustee Sale speaks for itself.

5
6 2.9.2 Fees and Amount to Reinstate in Section III

7 2.9.2.1 Defendants assert that the Amended Notice of Trustee Sale speaks
8 for itself. To the extent and answer is required, the statements in
9 Paragraph 2.9.2.1 of the FAC are legal conclusions and Defendants
10 are not required to respond.

11 2.9.3 The statement in Paragraph 2.9.3 is a statement that does not warrant a
12 denial or admission from Defendants. Defendants assert that the Notice of
13 Trustee's Sale speaks for itself.

14
15 2.9.4 The statement in Paragraph 2.9.4 is a statement that does not warrant a
16 denial or admission from Defendants. Defendants assert that the Amended
17 Notice of Trustee Sale speaks for itself.

18 2.10 To the extent Paragraph 2.10 of the FAC contain legal conclusions, Defendants are
19 not required to respond. As to the remaining allegations, the statements in
20 Paragraph 2.10 are statements that do not warrant a denial or admission from
21 Defendants. To the extent an answer is required, Defendants lack sufficient
22 information to admit or deny the remaining allegations and on this basis deny them.

23
24 2.11 The statements in Paragraph 2.11 of the FAC to not warrant a denial or admission
25 by Defendants. To the extent an answer is required, Defendants lack sufficient
26

1 information to admit or deny the remaining allegations of Paragraph 2.11 and on this
2 basis deny them.

3 2.12 The statements in Paragraph 2.12 contain legal conclusions and Defendants are
4 not required to respond. To the extent an answer is required, Defendants lack
5 sufficient information to admit or deny the remaining allegations of Paragraph 2.12
6 and on this basis deny them.

7
8 2.13 The statements in Paragraph 2.13 contain legal conclusions and Defendants are
9 not required to respond. To the extent an answer is required, Defendants lack
10 sufficient information to admit or deny the remaining allegations of Paragraph 2.13
11 and on this basis deny them.

12 2.14 The statements in Paragraph 2.14 of the FAC do not warrant a denial or admission
13 by Defendants. To the extent an answer is required, Defendants lack sufficient
14 information to admit or deny the remaining allegations of Paragraph 2.14 and on this
15 basis deny them.

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17 2.15 The statements in Paragraph 2.15 of the FAC do not warrant a denial or admission
18 by Defendants. To the extent an answer is required, Defendants lack sufficient
19 information to admit or deny the remaining allegations of Paragraph 2.15 and on this
20 basis deny them.

21
22 2.16 The statements in Paragraph 2.16 of the FAC do not warrant a denial or admission
23 by Defendants. To the extent an answer is required, Defendants lack sufficient
24 information to admit or deny the remaining allegations of Paragraph 2.16 and on this
25 basis deny them.
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2.17 The statements in Paragraph 2.17 of the FAC do not warrant a denial or admission by Defendants. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 2.17 and on this basis deny them.

III. PLAINTIFF'S CLAIMS

3.1 Violations of the Washington Deed of Trust Act, RCW 61.24 *et seq.*

3.1.1 Defendants re-state responses to each and every item and allegation above.

3.1.2 The statements in Paragraph 3.1.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.1.2 and on this basis deny them.

3.1.3 Defendants deny the statements in paragraph 3.1.3.

3.1.4 The statements in Paragraph 3.1.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.1.4 and on this basis deny them.

3.1.5 Defendants lack sufficient information to admit or deny the allegations of Paragraph 3.1.5 and on this basis deny them.

3.1.6 To the extent the statements in Paragraph 3.1.6 contain legal conclusions, Defendants are not required to respond. To the extent an answer is required for the remaining allegations, Defendants lack sufficient information to admit or deny the remaining allegations of Paragraph 3.1.6 and on this basis deny them.

1 3.1.7 To the extent the statements in Paragraph 3.1.7 contain legal conclusions,
2 Defendants are not required to respond. To the extent an answer is required
3 for the remaining allegations, Defendants lack sufficient information to
4 admit or deny the allegations of Paragraph 3.1.7 and on this basis deny them.

5 3.1.8 Defendants deny the allegations in Paragraph 3.1.8.

6 3.1.9 Defendants deny the allegations in Paragraph 3.1.9.

7 3.1.10 Defendants deny the allegations of Paragraph 3.1.10.

8 3.1.11 Defendants deny the allegations in Paragraph 3.1.11.

9 3.1.12 The statements in Paragraph 3.1.12 contain request for relief and Defendants
10 are not required to respond. Defendants deny any implicit assertions
11 contained in Paragraph 3.1.12.

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14 3.2 Violations of RESPA 12 U.S.C. § 2605 *et seq.* & § 2607 *et seq.*

15 3.2.1 Defendants re-state responses to each and every item and allegation above.

16 3.2.2 Defendants deny the allegations of Paragraph 3.2.2.

17 3.2.3 Defendants lack sufficient information to admit or deny the allegations of
18 Paragraph 3.2.3 and on that basis deny them.

19 3.2.4 Defendants deny the allegations of Paragraph 3.2.4.

20 3.2.5 Defendants deny the allegations of Paragraph 3.2.5.

21 3.2.6 Defendants deny the allegations of Paragraph 3.2.6.

22 3.2.7 Defendants lack sufficient information to admit or deny the allegations of
23 Paragraph 3.2.7.

1 3.2.8 The statements in Paragraph 3.2.8 contain request for relief and Defendants
2 are not required to respond. Defendants deny any implicit assertions
3 contained in Paragraph 3.2.8.

4
5 3.3 Violations of Truth and Lending Act 15 U.S.C. 1641 *et seq.*

6 3.3.1 Defendants re-state responses to each and every item and allegation above.

7 3.3.2 Defendants deny the allegations of Paragraph 3.3.2.

8 3.3.3 Defendants deny the allegations of Paragraph 3.3.3.

9 3.3.4 The statements in Paragraph 3.3.4 contain request for relief and Defendants
10 are not required to respond. Defendants deny any implicit assertions
11 contained in Paragraph 3.3.4.

12
13 3.4 Violations of FDCPA 15 U.S.C. § 1692 *et seq.*

14 3.4.1 Defendants re-state responses to each and every item and allegation above.

15 3.4.2 The statements in Paragraph 3.4.2 contain legal conclusions and
16 Defendants are not required to respond. To the extent an answer is required,
17 Defendants lack sufficient information to admit or deny the allegations
18 contained in Paragraph 3.4.2 and on this basis deny them.

19 3.4.3 The statements in Paragraph 3.4.3 contain legal conclusions and
20 Defendants are not required to respond. To the extent an answer is required,
21 Defendants deny the allegations of Paragraph 3.4.3.

22 3.4.4 Defendants deny the allegations in Paragraph 3.4.4.

23 3.4.5 Defendants deny the allegations in Paragraph 3.4.5.
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3.4.6 The statements in Paragraph 3.4.6 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.4.6.

3.5 Violations of FCRA 15 U.S.C. § 1681

3.5.1 Defendants re-state responses to each and every item and allegation above.

3.5.2 The statements in Paragraph 3.5.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants deny the allegations of Paragraph 3.5.2.

3.5.3 The statements in Paragraph 3.5.3 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.5.3.

3.6 Violations of the Washington Consumer Protection Act RCW 19.86 *et seq.*

3.6.1 Defendants re-state responses to each and every item and allegation above.

3.6.2 Elements of a Washington Consumer Protection Act Violation Claim

3.6.2.1 The statement in Paragraph 3.6.2.1 is a statement that does not warrant a denial or admission from Defendants.

3.6.2.2 The statements in Paragraph 3.6.2.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.6.2.2 and on this basis deny them.

3.6.3 Plaintiff alleges that Defendant Northwest Trustee has Violated the WA CPA

1 3.6.3.1 The statements in Paragraph 3.6.3.1 contain legal conclusions and
2 Defendants are not required to respond. To the extent an answer is
3 required, Defendants lack sufficient information to admit or deny the
4 allegations contained in Paragraph 3.6.3.1, and on this basis deny
5 them.

6
7 3.6.3.2 Defendants lack sufficient information to admit or deny the
8 allegations of Paragraph 3.6.3.2 and on that basis deny them.

9 3.6.3.3 The statements in Paragraph 3.6.3.3 contain legal conclusions and
10 Defendants are not required to respond. To the extent an answer is
11 required, Defendants lack sufficient information to admit or deny the
12 allegations contained in Paragraph 3.6.3.3 and on this basis deny
13 them.

14
15 3.6.3.4 The statements in Paragraph 3.6.3.4 contain legal conclusions and
16 Defendants are not required to respond. To the extent an answer is
17 required, Defendants lack sufficient information to admit or deny the
18 allegations contained in Paragraph 3.6.3.4 and on this basis deny
19 them.

20 3.6.3.5 The statements in Paragraph 3.6.3.5 contain legal conclusions and
21 Defendants are not required to respond. To the extent an answer is
22 required, Defendants lack sufficient information to admit or deny the
23 allegations contained in Paragraph 3.6.3.5 and on this basis deny
24 them.
25
26

1 3.6.3.6 The statements in Paragraph 3.6.3.6 contain legal conclusions and
2 Defendants are not required to respond. To the extent an answer is
3 required, Defendants lack sufficient information to admit or deny the
4 allegations contained in Paragraph 3.6.3.6 and on this basis deny
5 them.

6
7 3.6.4 Plaintiff Alleges that OneWest has Violated the WA CPA

8 3.6.4.1 Defendants deny the allegations in Paragraph 3.6.4.1.

9 3.6.4.2 The statements in Paragraph 3.6.4.2 contain statements that do not
10 warrant a denial or admission by Defendants. To the extent an
11 answer is required, Defendants deny the allegations in Paragraph
12 3.6.4.2.

13 3.6.4.3 The statements in Paragraph 3.6.4.3 contain legal conclusions and
14 Defendants are not required to respond. To the extent an answer is
15 required, Defendants lack sufficient information to admit or deny the
16 allegations contained in Paragraph 3.6.4.3 and on this basis deny
17 them.

18 3.6.4.4 The statements in Paragraph 3.6.4.4 contain legal conclusions and
19 Defendants are not required to respond. To the extent an answer is
20 required, Defendants lack sufficient information to admit or deny the
21 allegations contained in Paragraph 3.6.4.4 and on this basis deny
22 them.

23 3.6.4.5 The statements in Paragraph 3.6.4.5 contain legal conclusions and
24 Defendants are not required to respond. To the extent an answer is
25 required, Defendants lack sufficient information to admit or deny the
26 allegations contained in Paragraph 3.6.4.5 and on this basis deny

1 required, Defendants lack sufficient information to admit or deny the
2 allegations contained in Paragraph 3.6.4.5 and on this basis deny
3 them.

4 3.6.4.6 The statements in Paragraph 3.6.4.6 contain legal conclusions and
5 Defendants are not required to respond. To the extent an answer is
6 required, Defendants lack sufficient information to admit or deny the
7 allegations contained in Paragraph 3.6.4.6 and on this basis deny
8 them.
9

10 3.6.5 Plaintiff alleges that Defendant MERS has Violated the WA CPA

11 3.6.5.1 Defendants deny the allegations in Paragraph 3.6.5.1.

12 3.6.5.2 The statements in Paragraph 3.6.5.2 contain legal conclusions and
13 Defendants are not required to respond. To the extent an answer is
14 required, Defendants lack sufficient information to admit or deny the
15 allegations contained in Paragraph 3.6.5.2 and on this basis deny
16 them.
17

18 3.6.5.3 The statements in Paragraph 3.6.5.3 contain legal conclusions and
19 Defendants are not required to respond. To the extent an answer is
20 required, Defendants lack sufficient information to admit or deny the
21 allegations contained in Paragraph 3.6.5.3 and on this basis deny
22 them.
23

24 3.6.5.4 The statements in Paragraph 3.6.5.4 contain legal conclusions and
25 Defendants are not required to respond. To the extent an answer is
26 required, Defendants lack sufficient information to admit or deny the

1 allegations contained in Paragraph 3.6.5.4 and on this basis deny
2 them.

3 3.6.5.5 The statements in Paragraph 3.6.5.5 contain legal conclusions and
4 Defendants are not required to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 allegations contained in Paragraph 3.6.5.5 and on this basis deny
7 them.

8 3.6.5.6 The statements in Paragraph 3.6.5.6 contain legal conclusions and
9 Defendants are not required to respond. To the extent an answer is
10 required, Defendants lack sufficient information to admit or deny the
11 allegations contained in Paragraph 3.6.5.6 and on this basis deny
12 them.

13 3.6.6 The statements in Paragraph 3.6.6 contain request for relief and Defendants
14 are not required to respond. Defendants deny any implicit assertions
15 contained in Paragraph 3.6.6.

16 3.7 Fraud

17 3.7.1 Defendants re-state responses to each and every item and allegation above.

18 3.7.2 Elements, Requirements and Definition of Pleading Fraud

19 3.7.2.1 The statement in Paragraph 3.7.2.1 is a statement that does not
20 warrant a denial or admission from Defendants.

21 3.7.2.2 The statement in Paragraph 3.7.2.2 is a statement that does not
22 warrant a denial or admission from Defendants.

1 3.7.2.3 The statement in Paragraph 3.7.2.3 is a statement that does not
2 warrant a denial or admission from Defendants.

3 3.7.3 Count One: Defendant OneWest and the Notice of Default

4 3.7.3.1 Defendants assert that the Notice of Default speaks for itself. To the
5 extent an answer is required, Defendants lack sufficient information
6 to admit or deny the remaining allegations of Paragraph 3.7.3.1 and
7 on this basis deny them.

8 3.7.3.2 The statement in Paragraph 3.7.3.2 is a statement that does not
9 warrant a denial or admission from Defendants.

10 3.7.3.3 The statements in Paragraph 3.7.3.3 contain legal conclusions and
11 Defendants are not required to respond. To the extent an answer is
12 required, Defendants lack sufficient information to admit or deny the
13 allegations contained in Paragraph 3.7.3.3 and on this basis deny
14 them.

15 3.7.3.4 The statements in Paragraph 3.7.3.4 contain legal conclusions and
16 Defendants are not required to respond. To the extent an answer is
17 required, Defendants lack sufficient information to admit or deny the
18 allegations contained in Paragraph 3.7.3.4 and on this basis deny
19 them.

20 3.7.3.5 The statements in Paragraph 3.7.3.5 contain legal conclusions and
21 Defendants are not required to respond. To the extent an answer is
22 required, Defendants lack sufficient information to admit or deny the
23 allegations contained in Paragraph 3.7.3.5 and on this basis deny
24 them.

1 allegations contained in Paragraph 3.7.3.5 and on this basis deny
2 them.

3 3.7.3.6 The statements in Paragraph 3.7.3.6 contain legal conclusions and
4 Defendants are not required to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 allegations contained in Paragraph 3.7.3.6 and on this basis deny
7 them.

8 3.7.3.7 The statements in Paragraph 3.7.3.7 contain statements to do not
9 warrant a denial or admission from Defendants. To the extent an
10 answer is required, Defendants lack sufficient information to admit
11 or deny the allegations contained in Paragraph 3.7.3.7 and on this
12 basis deny them.

13 3.7.3.8 The statements in Paragraph 3.7.3.8 contain legal conclusions and
14 Defendants are not required to respond. To the extent an answer is
15 required, Defendants lack sufficient information to admit or deny the
16 allegations contained in Paragraph 3.7.3.8 and on this basis deny
17 them.

18 3.7.3.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and
19 Defendants are not required to respond. To the extent an answer is
20 required, Defendants lack sufficient information to admit or deny the
21 allegations contained in Paragraph 3.7.3.9 and on this basis deny
22 them.

23 3.7.4 Count Two: Defendant Northwest Trustee and the Notice of Default
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1 3.7.4.1 Defendants assert that the Notice of Default speaks for itself. To the
2 extent an answer is required, Defendants lack sufficient information
3 to admit or deny the remaining allegations of Paragraph 3.7.4.1 and
4 on this basis deny them.

5 3.7.4.2 The statement in Paragraph 3.7.4.2 is a statement that does not
6 warrant a denial or admission from Defendants.

7 3.7.4.3 The statements in Paragraph 3.7.4.3 contain legal conclusions and
8 Defendants are not required to respond. To the extent an answer is
9 required, Defendants lack sufficient information to admit or deny the
10 allegations contained in Paragraph 3.7.4.3 and on this basis deny
11 them.

12 3.7.4.4 The statements in Paragraph 3.7.4.4 contain legal conclusions and
13 Defendants are not required to respond. To the extent an answer is
14 required, Defendants lack sufficient information to admit or deny the
15 allegations contained in Paragraph 3.7.4.4 and on this basis deny
16 them.

17 3.7.4.5 The statements in Paragraph 3.7.4.5 contain legal conclusions and
18 Defendants are not required to respond. To the extent an answer is
19 required, Defendants lack sufficient information to admit or deny the
20 allegations contained in Paragraph 3.7.4.5 and on this basis deny
21 them.

22 3.7.4.6 The statements in Paragraph 3.7.4.6 contain legal conclusions and
23 Defendants are not required to respond. To the extent an answer is
24

1 required, Defendants lack sufficient information to admit or deny the
2 allegations contained in Paragraph 3.7.4.6 and on this basis deny
3 them.

4 3.7.4.7 The statements in Paragraph 3.7.4.7 contain legal conclusions and
5 Defendants are not required to respond. To the extent an answer is
6 required, Defendants lack sufficient information to admit or deny the
7 allegations contained in Paragraph 3.7.4.7 and on this basis deny
8 them.

9 3.7.4.8 The statements in Paragraph 3.7.4.8 contain legal conclusions and
10 Defendants are not required to respond. To the extent an answer is
11 required, Defendants lack sufficient information to admit or deny the
12 allegations contained in Paragraph 3.7.4.8 and on this basis deny
13 them.

14 3.7.4.9 The statements in Paragraph 3.7.4.9 contain legal conclusions and
15 Defendants are not required to respond. To the extent an answer is
16 required, Defendants lack sufficient information to admit or deny the
17 allegations contained in Paragraph 3.7.4.9 and on this basis deny
18 them.

19 3.7.5 Count Three: Defendant Northwest Trustee and the Notice of Trustee's Sale

20 3.7.5.1 Defendants assert that the Notice of Trustee's Sale speaks for itself.
21 To the extent an answer is required, Defendants lack sufficient
22 information to admit or deny the remaining allegations of Paragraph
23 3.7.5.1 and on this basis deny them.
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1 3.7.5.2 The statement in Paragraph 3.7.5.2 is a statement that does not
2 warrant a denial or admission from Defendants.

3 3.7.5.3 The statements in Paragraph 3.7.5.3 contain legal conclusions and
4 Defendants are not required to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 allegations contained in Paragraph 3.7.5.3 and on this basis deny
7 them.
8

9 3.7.5.4 Defendants assert that the Assignment of the Deed of Trust and
10 Appointment of Successor Trustee speaks for themselves. To the
11 extent an answer is required, Defendants lack sufficient information
12 to admit or deny the remaining allegations of Paragraph 3.7.5.4 and
13 on this basis deny them.
14

15 3.7.5.5 The statements in Paragraph 3.7.5.5 contain legal conclusions and
16 Defendants are not required to respond. To the extent an answer is
17 required, Defendants lack sufficient information to admit or deny the
18 allegations contained in Paragraph 3.7.5.5 and on this basis deny
19 them.
20

21 3.7.5.6 The statement in Paragraph 3.7.5.6 is a statement that does not
22 warrant a denial or admission from Defendants. To the extent an
23 answer is required, Defendants lack sufficient information to admit
24 or deny the allegations contained in Paragraph 3.7.5.6 and on this
25 basis deny them.
26

1 3.7.5.7 The statement in Paragraph 3.7.5.7 is a statement that does not
2 warrant a denial or admission from Defendants. To the extent an
3 answer is required, Defendants lack sufficient information to admit
4 or deny the allegations contained in Paragraph 3.7.5.7 and on this
5 basis deny them.
6

7 3.7.5.8 The statements in Paragraph 3.7.3.8 contain legal conclusions and
8 Defendants are not required to respond. To the extent an answer is
9 required, Defendants lack sufficient information to admit or deny the
10 allegations contained in Paragraph 3.7.3.8 and on this basis deny
11 them.
12

13 3.7.5.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and
14 Defendants are not required to respond. To the extent an answer is
15 required, Defendants lack sufficient information to admit or deny the
16 allegations contained in Paragraph 3.7.3.9 and on this basis deny
17 them.
18

19 3.7.6 Count Four: Defendant Northwest Trustee and the Amended notice of
20 Trustee Sale

21 3.7.6.1 Defendants assert that the Amended Notice of Trustee's Sale speaks
22 for itself. To the extent an answer is required, Defendants lack
23 sufficient information to admit or deny the remaining allegations of
24 Paragraph 3.7.6.1 and on this basis deny them.

25 3.7.6.2 The statement in Paragraph 3.7.6.2 is a statement that does not
26 warrant a denial or admission from Defendants.

1 3.7.6.3 The statements in Paragraph 3.7.6.3 contain legal conclusions and
2 Defendants are not required to respond. To the extent an answer is
3 required, Defendants lack sufficient information to admit or deny the
4 allegations contained in Paragraph 3.7.6.3 and on this basis deny
5 them.
6

7 3.7.6.4 To the extent Paragraph 3.7.6.4 contain legal conclusions,
8 Defendants are not require to respond. To the extent an answer is
9 required for the remaining allegations, Defendants assert that the
10 Assignment of the Deed of Trust and Appointment of Successor
11 Trustee speak for themselves.
12

13 3.7.6.5 The statement in Paragraph 3.7.6.5 contains a legal conclusion and
14 Defendants are not required to respond. To the extent an answer is
15 required, Defendants lack sufficient information to admit or deny the
16 allegation contained in Paragraph 3.7.6.5 and on this basis deny it.
17

18 3.7.6.6 The statements in Paragraph 3.7.6.6 contain legal conclusions and
19 Defendants are not required to respond. To the extent an answer is
20 required, Defendants lack sufficient information to admit or deny the
21 allegations contained in Paragraph 3.7.6.6 and on this basis deny
22 them.
23

24 3.7.6.7 The statement in Paragraph 3.7.6.7 is a statement that does not
25 warrant a denial or admission from Defendants. To the extent an
26 answer is required, Defendants lack sufficient information to admit

1 or deny the allegations contained in Paragraph 3.7.6.7 and on this
2 basis deny them.

3 3.7.6.8 The statements in Paragraph 3.7.6.8 contain legal conclusions and
4 Defendants are not required to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 allegations contained in Paragraph 3.7.6.8 and on this basis deny
7 them.

8
9 3.7.6.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and
10 Defendants are not required to respond. To the extent an answer is
11 required, Defendants lack sufficient information to admit or deny the
12 allegations contained in Paragraph 3.7.3.9 and on this basis deny
13 them.

14
15 3.7.7 Count Five: Defendant MERS and the Assignment of the Deed of Trust

16 3.7.7.1 Defendants assert that the Assignment of the Deed of Trust speaks
17 for itself. To the extent it does not, Defendants lack sufficient
18 information to admit or deny the remaining allegations of Paragraph
19 3.7.7.1 and on this basis deny them.

20 3.7.7.2 The statement in Paragraph 3.7.7.2 is a statement that does not
21 warrant a denial or admission from Defendants.

22 3.7.7.3 The statements in Paragraph 3.7.7.3 contain legal conclusions and
23 Defendants are not required to respond. To the extent an answer is
24 required, Defendants lack sufficient information to admit or deny the
25
26

1 allegations contained in Paragraph 3.7.7.3 and on this basis deny
2 them.

3 3.7.7.4 To the extent Paragraph 3.7.7.4 contain legal conclusions,
4 Defendants are not require to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 remaining allegations of Paragraph 3.7.7.4 and on this basis deny
7 them.

8 3.7.7.5 The statements in Paragraph 3.7.7.5 contain legal conclusions and
9 Defendants are not required to respond. To the extent an answer is
10 required, Defendants lack sufficient information to admit or deny the
11 allegations contained in Paragraph 3.7.7.5 and on this basis deny
12 them.

13 3.7.7.6 The statement in Paragraph 3.7.7.6 is a statement that does not
14 warrant a denial or admission from Defendants. To the extent an
15 answer is required, Defendants lack sufficient information to admit
16 or deny the allegations contained in Paragraph 3.7.7.6 and on this
17 basis deny them.

18 3.7.7.7 The statement in Paragraph 3.7.7.7 is a statement that does not
19 warrant a denial or admission from Defendants. To the extent an
20 answer is required, Defendants lack sufficient information to admit
21 or deny the allegations contained in Paragraph 3.7.7.7 and on this
22 basis deny them.

1 3.7.7.8 The statements in Paragraph 3.7.7.8 contain legal conclusions and
2 Defendants are not required to respond. To the extent an answer is
3 required, Defendants lack sufficient information to admit or deny the
4 allegations contained in Paragraph 3.7.7.8 and on this basis deny
5 them.

6
7 3.7.7.9 The statements in Paragraph 3.7.3.9 contain legal conclusions and
8 Defendants are not required to respond. To the extent an answer is
9 required, Defendants lack sufficient information to admit or deny the
10 allegations contained in Paragraph 3.7.3.9 and on this basis deny
11 them.

12
13 3.7.8 Count Six: Defendant OneWest and the Appointment of Successor Trustee

14 3.7.8.1 Defendants assert that the Appointment of Successor Trustee speaks
15 for itself. To the extent it does not, Defendants lack sufficient
16 information to admit or deny the remaining allegations of Paragraph
17 3.7.8.1 and on this basis deny them.

18 3.7.8.2 The statement in Paragraph 3.7.8.2 is a statement that does not
19 warrant a denial or admission from Defendants.

20 3.7.8.3 The statements in Paragraph 3.7.8.3 contain legal conclusions and
21 Defendants are not required to respond. To the extent an answer is
22 required, Defendants lack sufficient information to admit or deny the
23 allegations contained in Paragraph 3.7.8.3 and on this basis deny
24 them.
25
26

1 3.7.8.4 The statements in Paragraph 3.7.8.4 contain legal conclusions and
2 Defendants are not required to respond. To the extent an answer is
3 required, Defendants lack sufficient information to admit or deny the
4 remaining allegations of Paragraph 3.7.8.4 and on this basis deny
5 them.

6
7 3.7.8.5 The statements in Paragraph 3.7.8.5 contain legal conclusions and
8 Defendants are not required to respond. To the extent an answer is
9 required, Defendants lack sufficient information to admit or deny the
10 allegations contained in Paragraph 3.7.8.5 and on this basis deny
11 them.

12
13 3.7.8.6 The statement in Paragraph 3.7.8.6 is a statement that does not
14 warrant a denial or admission from Defendants. To the extent an
15 answer is required, Defendants lack sufficient information to admit
16 or deny the allegations contained in Paragraph 3.7.8.6 and on this
17 basis deny them.

18 3.7.8.7 The statements in Paragraph 3.7.8.7 contain legal conclusions and
19 Defendants are not required to respond. To the extent an answer is
20 required, Defendants lack sufficient information to admit or deny the
21 allegations contained in Paragraph 3.7.8.7 and on this basis deny
22 them.

23
24 3.7.8.8 The statements in Paragraph 3.7.8.8 are statements that do not
25 warrant a denial or admission from Defendants. To the extent an
26 answer is required, Defendants lack sufficient information to admit

1 or deny the allegations contained in Paragraph 3.7.8.8 and on this
2 basis deny them.

3 3.7.8.9 The statements in Paragraph 3.7.8.9 contain legal conclusions and
4 Defendants are not required to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 allegations contained in Paragraph 3.7.8.9 and on this basis deny
7 them.
8

9 3.7.9 Fraud on the Court

10 3.7.9.1 The statements in Paragraph 3.7.9.1 are legal conclusions and
11 Defendants are not required to answer. To the extent an answer is
12 required, Defendants deny the allegations contained in Paragraph
13 3.7.9.1.
14

15 3.7.9.2 The statements in Paragraph 3.7.9.2 are statements are legal
16 conclusions and Defendants are not required to answer. To the
17 extent an answer is required, Defendants deny the allegations
18 contained in Paragraph 3.7.9.2.

19 3.7.9.3 The statements in Paragraph 3.7.9.3 are statements that do not
20 warrant a denial or admission from Defendants. To the extent an
21 answer is required, Defendants deny the allegations contained in
22 Paragraph 3.7.9.3.
23

24 3.7.10 The statements in Paragraph 3.7.10 contain request for relief and Defendants
25 are not required to respond. Defendants deny any implicit assertions
26 contained in Paragraph 3.7.10.

3.8 Civil Conspiracy

3.8.1 Defendants re-state responses to each and every item and allegation above.

3.8.2 Elements and Requirements of Civil Conspiracy

3.8.2.1 The statements in Paragraph 3.8.2.1 are statements that do not warrant a denial or admission from Defendants.

3.8.3 Conspiracy of Defendants Against Plaintiff

3.8.3.1 The statements in Paragraph 3.8.3.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants deny the allegations contained in Paragraph 3.8.3.1.

3.8.3.2 The statements in Paragraph 3.8.3.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.8.3.2 and on this basis deny them.

3.8.3.3 The statements in Paragraph 3.8.3.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.8.3.3 and on this basis deny them.

3.8.3.4 The statements in Paragraph 3.8.3.4 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the

allegations contained in Paragraph 3.8.3.4 and on this basis deny them.

3.8.4 The statements in Paragraph 3.8.4 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 3.8.4.

3.9 Slander of Title

3.9.1 Defendants re-state responses to each and every item and allegation above.

3.9.2 Elements of Slander of Title

3.9.2.1 The statements in Paragraph 3.9.2.1 are statements that do not warrant a denial or admission from Defendants.

3.9.3 Count 1: Assignment of Deed of Trust

3.9.3.1 The statements in Paragraph 3.9.3.1 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.3.1 and on this basis deny them.

3.9.3.2 The statements in Paragraph 3.9.3.2 contain legal conclusions and Defendants are not required to respond. To the extent an answer is required, Defendants lack sufficient information to admit or deny the allegations contained in Paragraph 3.9.3.2 and on this basis deny them.

3.9.3.3 The statements in Paragraph 3.9.3.3 contain legal conclusions and Defendants are not required to respond. To the extent an answer is

1 required, Defendants lack sufficient information to admit or deny the
2 allegations contained in Paragraph 3.9.3.3 and on this basis deny
3 them.

4 3.9.3.4 The statements in Paragraph 3.9.3.4 contain legal conclusions and
5 Defendants are not required to respond. To the extent an answer is
6 required, Defendants lack sufficient information to admit or deny the
7 allegations contained in Paragraph 3.9.3.4 and on this basis deny
8 them.

9 3.9.3.5 The statements in Paragraph 3.9.3.5 contain legal conclusions and
10 Defendants are not required to respond. To the extent an answer is
11 required, Defendants lack sufficient information to admit or deny the
12 allegations contained in Paragraph 3.9.3.5 and on this basis deny
13 them.

14 3.9.4 Count 2: Appointment of Successor Trustee

15 3.9.4.1 The statements in Paragraph 3.9.4.1 contain legal conclusions and
16 Defendants are not required to respond. To the extent an answer is
17 required, Defendants lack sufficient information to admit or deny the
18 allegations contained in Paragraph 3.9.4.1 and on this basis deny
19 them.

20 3.9.4.2 The statements in Paragraph 3.9.4.2 contain legal conclusions and
21 Defendants are not required to respond. To the extent an answer is
22 required, Defendants lack sufficient information to admit or deny the
23
24
25
26

1 allegations contained in Paragraph 3.9.4.2 and on this basis deny
2 them.

3 3.9.4.3 The statements in Paragraph 3.9.4.3 contain legal conclusions and
4 Defendants are not required to respond. To the extent an answer is
5 required, Defendants lack sufficient information to admit or deny the
6 allegations contained in Paragraph 3.9.4.3 and on this basis deny
7 them.

8 3.9.4.4 The statements in Paragraph 3.9.4.4 contain legal conclusions and
9 Defendants are not required to respond. To the extent an answer is
10 required, Defendants lack sufficient information to admit or deny the
11 allegations contained in Paragraph 3.9.4.4 and on this basis deny
12 them.

13 3.9.4.5 The statements in Paragraph 3.9.4.5 contain legal conclusions and
14 Defendants are not required to respond. To the extent an answer is
15 required, Defendants lack sufficient information to admit or deny the
16 allegations contained in Paragraph 3.9.4.5 and on this basis deny
17 them.

18 3.9.5 Count 3: Notice of Trustee Sale

19 3.9.5.1 The statements in Paragraph 3.9.5.1 contain legal conclusions and
20 Defendants are not required to respond. To the extent an answer is
21 required, Defendants lack sufficient information to admit or deny the
22 allegations contained in Paragraph 3.9.5.1 and on this basis deny
23 them.

1 3.9.5.2 The statements in Paragraph 3.9.5.2 contain legal conclusions and
2 Defendants are not required to respond. To the extent an answer is
3 required, Defendants lack sufficient information to admit or deny the
4 allegations contained in Paragraph 3.9.5.2 and on this basis deny
5 them.

6
7 3.9.5.3 The statements in Paragraph 3.9.5.3 contain legal conclusions and
8 Defendants are not required to respond. To the extent an answer is
9 required, Defendants lack sufficient information to admit or deny the
10 allegations contained in Paragraph 3.9.5.3 and on this basis deny
11 them.

12
13 3.9.5.4 The statements in Paragraph 3.9.5.4 contain legal conclusions and
14 Defendants are not required to respond. To the extent an answer is
15 required, Defendants lack sufficient information to admit or deny the
16 allegations contained in Paragraph 3.9.5.4 and on this basis deny
17 them.

18 3.9.5.5 The statements in Paragraph 3.9.5.5 contain legal conclusions and
19 Defendants are not required to respond. To the extent an answer is
20 required, Defendants lack sufficient information to admit or deny the
21 allegations contained in Paragraph 3.9.5.5 and on this basis deny
22 them.

23
24 3.9.6 Count 4: Amended Notice of Trustee Sale

25 3.9.6.1 The statements in Paragraph 3.9.6.1 contain legal conclusions and
26 Defendants are not required to respond. To the extent an answer is

1 required, Defendants lack sufficient information to admit or deny the
2 allegations contained in Paragraph 3.9.6.1 and on this basis deny
3 them.

4 3.9.6.2 The statements in Paragraph 3.9.6.2 contain legal conclusions and
5 Defendants are not required to respond. To the extent an answer is
6 required, Defendants lack sufficient information to admit or deny the
7 allegations contained in Paragraph 3.9.6.2 and on this basis deny
8 them.

9 3.9.6.3 The statements in Paragraph 3.9.6.3 contain legal conclusions and
10 Defendants are not required to respond. To the extent an answer is
11 required, Defendants lack sufficient information to admit or deny the
12 allegations contained in Paragraph 3.9.6.3 and on this basis deny
13 them.

14 3.9.6.4 The statements in Paragraph 3.9.6.4 contain legal conclusions and
15 Defendants are not required to respond. To the extent an answer is
16 required, Defendants lack sufficient information to admit or deny the
17 allegations contained in Paragraph 3.9.6.4 and on this basis deny
18 them.

19 3.9.6.5 The statements in Paragraph 3.9.6.5 contain legal conclusions and
20 Defendants are not required to respond. To the extent an answer is
21 required, Defendants lack sufficient information to admit or deny the
22 allegations contained in Paragraph 3.9.6.5 and on this basis deny
23 them.

1 3.9.7 The statements in Paragraph 3.9.7 contain request for relief and Defendants
2 are not required to respond. Defendants deny any implicit assertions
3 contained in Paragraph 3.9.7.

4
5 3.10 Declaratory Relief; Lack of Standing

6 3.10.1 Defendants re-state responses to each and every item and allegation above.

7 3.10.2 Defendants deny the allegations contained in Paragraph 3.10.2.

8 3.10.3 Defendants deny the allegations contained in Paragraph 3.10.3.

9 3.10.4 Defendants lack sufficient knowledge to admit or deny the allegations
10 contained in Paragraph 3.10.4 and on this basis deny them.

11 3.10.5 The statements in Paragraph 3.10.5 contain legal conclusions and
12 Defendants are not required to respond. To the extent an answer is
13 required, Defendants lack sufficient information to admit or deny the
14 allegations contained in Paragraph 3.10.5 and on this basis deny them.

15
16 3.10.6 The statements in Paragraph 3.10.6 contain legal conclusions and
17 Defendants are not required to respond. To the extent an answer is
18 required, Defendants lack sufficient information to admit or deny the
19 allegations contained in Paragraph 3.10.5 and on this basis deny them.

20 3.10.7 The statements in Paragraph 3.10.7 contain request for relief and Defendants
21 are not required to respond. Defendants deny any implicit assertions
22 contained in Paragraph 3.10.7.

23
24 3.11 Permanent Injunction

25 3.11.1 The statement in Paragraph 3.11.1 is a legal conclusion and Defendants
26 are not required to answer.

1 3.11.1.1 The statements in Paragraph 3.11.1.1 contain legal conclusions and
2 Defendants are not required to answer.

3 3.11.1.2 The statements in Paragraph 3.11.1.2 contain legal conclusions and
4 Defendants are not required to answer.

5 3.11.1.3 The statements in Paragraph 3.11.1.3 contain legal conclusions and
6 Defendants are not required to respond.

7 3.11.1.4 The statements in Paragraph 3.11.1.4 contain legal conclusions and
8 Defendants are not required to answer.

9
10 3.11.2 Defendants re-state responses to each and every item and allegation above.

11 3.11.3 The statements in Paragraph 3.11.3 contain request for relief and Defendants
12 are not required to respond. Defendants deny any implicit assertions
13 contained in Paragraph 3.11.3.

14
15 3.11.4 The statements in Paragraph 3.11.4 contain request for relief and Defendants
16 are not required to respond. Defendants deny any implicit assertions
17 contained in Paragraph 3.11.4.

18 3.11.5 The statements in Paragraph 3.11.5 contain request for relief and Defendants
19 are not required to respond. Defendants deny any implicit assertions
20 contained in Paragraph 3.11.5.

21
22 3.11.6 The statements in Paragraph 3.11.6 contain request for relief and Defendants
23 are not required to respond. Defendants deny any implicit assertions
24 contained in Paragraph 3.11.6.

25
26 **IV. REQUESTS FOR RELIEF**

1 4.1 The statements in Paragraph 4.1 contain request for relief and Defendants are not
2 required to respond. Defendants deny any implicit assertions contained in Paragraph
3 4.1.

4 4.1.1 The statements in Paragraph 4.1.1 contain request for relief and Defendants
5 are not required to respond. Defendants deny any implicit assertions
6 contained in Paragraph 4.2.

7 4.1.2 The statements in Paragraph 4.1.2 contain request for relief and Defendants
8 are not required to respond. Defendants deny any implicit assertions
9 contained in Paragraph 4.1.2.

10 4.1.3 The statements in Paragraph 4.1.3 contain request for relief and Defendants
11 are not required to respond. Defendants deny any implicit assertions
12 contained in Paragraph 4.1.3.

13 4.2 The statements in Paragraph 4.2 contain request for relief and Defendants are not
14 required to respond. Defendants deny any implicit assertions contained in Paragraph
15 4.2.

16 4.3 The statements in Paragraph 4.3 contain request for relief and Defendants are not
17 required to respond. Defendants deny any implicit assertions contained in Paragraph
18 4.3.

19 4.4 The statements in Paragraph 4.4 contain request for relief and Defendants are not
20 required to respond. Defendants deny any implicit assertions contained in Paragraph
21 4.4.

1 4.5 The statements in Paragraph 4.5 contain request for relief and Defendants are not
2 required to respond. Defendants deny any implicit assertions contained in Paragraph
3 4.5.

4 4.6 The statements in Paragraph 4.6 contain request for relief and Defendants are not
5 required to respond. Defendants deny any implicit assertions contained in Paragraph
6 4.6.

7 4.7 The statements in Paragraph 4.7 contain request for relief and Defendants are not
8 required to respond. Defendants deny any implicit assertions contained in Paragraph
9 4.7.

10 4.8 The statements in Paragraph 4.8 contain request for relief and Defendants are not
11 required to respond. Defendants deny any implicit assertions contained in Paragraph
12 4.8.

13 4.9 The statements in Paragraph 4.9 contain request for relief and Defendants are not
14 required to respond. Defendants deny any implicit assertions contained in Paragraph
15 4.9.

16 4.10 The statements in Paragraph 4.10 contain request for relief and Defendants are not
17 required to respond. Defendants deny any implicit assertions contained in Paragraph
18 4.10.

19 4.11 The statements in Paragraph 4.11 contain request for relief and Defendants are not
20 required to respond. Defendants deny any implicit assertions contained in Paragraph
21 4.11.

4.12 The statements in Paragraph 4.12 contain request for relief and Defendants are not required to respond. Defendants deny any implicit assertions contained in Paragraph 4.12.

V. AFFIRMATIVE DEFENSES

Having answer Plaintiff's FAC, Defendants assert the following affirmative defenses, the assertion of which in no way shift the burden of proof to Defendants:

1. Failure to State a Claim: The assertions in the FAC fail to state claims upon which relief can be granted.
2. Failure of Damages: Plaintiff cannot allege any cognizable damages resulting from the acts alleged in the FAC.
3. Mitigation of Damages: Plaintiff has failed to mitigate the alleged damages.
4. Waiver and Estoppel: Plaintiff's claims are barred by the equitable doctrines of waiver and estoppel.
5. Breach of Contract: Plaintiff breached the Note and defaulted according to the Deed of Trust by failing to make payment described in the Note and Deed of Trust.
6. Nonperformance of Condition Precedent: Plaintiff breached the Note and defaulted according to the Deed of Trust by failing to make payments described in the Note and Deed of Trust.
7. Laches: The claims asserted in the FAC are barred in whole or in part by the equitable doctrine of laches.
8. Contributory Fault/Unclean Hands: The claims asserted in the FAC are barred in whole or in part based on Plaintiff's contributory fault and/or unclean hands.
9. Mootness. Plaintiff's claim is moot and therefore barred at this time.

1 10. Statutory Exemption. The plaintiff's claim falls within an exemption from statutory
2 coverage.

3 11. Insufficient service. Plaintiff has failed to effect proper service of the FAC.

4 12. Defendants also assert the defenses of assumption of risk, mutual mistake, and reserve
5 the right to amend this Answer by way of adding additional affirmative defenses, counter
6 claims, or third party claims as additional facts are discovered, without waiving defenses
7 of lack of subject matter jurisdiction or any other valid defense.
8


9 **VI. PRAYER FOR RELIEF**

10 Defendant prays for judgment against Plaintiff as follows:

- 11 1. That Plaintiff's FAC be dismissed with prejudice;
12 2. That the Plaintiff recovers nothing on account of the claims made in the FAC.
13 3. That the Defendant be awarded costs of suit herein; and
14 4. For such other and further relief as the Court deems equitable and just.
15
16
17

18 DATED this 6th day of March, 2012.

19 **ROUTH CRABTREE OLSEN, P.S.**

20 
21 By: /s/ Heidi E. Buck
22 Heidi E. Buck, WSBA No. 41769
23 Attorneys for Defendants OneWest
24 and MERS
25
26